IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

MONDAY, THE 5TH MARCH 2007 / 14TH PHALGUNA 1928

Crl.MC.No. 584 of 2007()

[CRIME NO.414 OF 2006 OF PALARIVATTOM POLICE STATION]
C.C.NO.15 OF 2007 OF J.F.C.M-I, ERNAKULAM

PETITIONER:

GEORGE PALAT, S/O. ISSAC PALAT,
AGED 64 YEARS, "PALATHINKAL", HOUSE,
HOUSE NO.32/1867-A, NETAJI ROAD, MAMANGALAM,
ERNAKULAM.

BY ADV. SMT.RINTA GEORGE

RESPONDENTS:
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1. STATE OF KERALA, REPRESENTED BY
PUBLIC PROSECUTOR, HIGH COURT OF KERALA,
ERNAKULAM.
(CC NO.15 OF 2007 OF PENDING BEFORE THE JUDICIAL
FIRST CLASS MAGISTRATE COURT-I, ERNAKULAM.)

2. SILBA ELIZABETH, D/O. M.P.PUNNOOSE,
AGED 28 YEARS, MANIANPIDAVATHU HOUSE,
NALUNNAKAL P.O., VAKATHANAM, CHANGANACHERRY TALUK,
KOTTAYAM-686 538.

BY ADV.SRI.ANNIE GEORGE FOR R2
PUBLIC PROSECUTOR SRI.PREEZ

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 05/03/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R.BASANT, J

Crl.M.C.No.584 of 2007

Dated this the 5th day of March 2007

O R D E R

The petitioner is the accused in a prosecution under Section 498(A) I.P.C. He is the father-in-law of the second respondent herein. Cognizance has been taken on the basis of the final report submitted by the police. The petitioner's son and the first respondent had various disputes regarding the matrimony between them. All those have been settled. To cut a long story short, reference can be made to Annexure-III order whereunder another bench of this court, while considering the matrimonial case, has issued various directions. One of the directions in that case is that the parties shall report compromise to the investigating officer in this crime and the investigating officer must take appropriate steps to close the matter. That specific direction is available in paragraph 7(4) of Annexure-III order in the matrimonial case.

2. The second respondent has entered appearance before this court through counsel. The learned counsel for the petitioner as also the learned counsel for the second respondent

submit that all the disputes between the parties have been settled by now. But unfortunately before the directions in paragraph 7(4) could be complied with, the final report had already been filed and cognizance has been taken by the learned Magistrate of the offences punishable under Section 498(A) I.P.C in crime No.414 of 2006 of Palarivattom Police Station. Accordingly, C.C.No.15/07 is registered before the Judicial First Class Magistrate Court-I, Ernakulam. The offence is not compoundable and in these circumstances, the petitioners are disabled and they cannot file an application for composition under Section 320 Cr.P.C. In these circumstances, the petitioner has come before this court along with the second respondent to make a prayer that powers under Section 482 Cr.P.C may be invoked to quash the proceedings.

3. I am satisfied from the totality of the circumstances placed before this court that the matter has been settled between the parties amicably and that the offences allegedly committed by the petitioner has been compounded by the second respondent. If legally permissible, in the light of Annexure-III judgment, I am certainly persuaded to quash the proceedings.

4. The offence under Section 498(A) I.P.C is not compoundable and in these circumstances, Section 320 Cr.P.C appears to stand in the way. But the Supreme Court has considered this situation and in B.S.Joshi vs. State of Haryana [AIR 2003 SC 1386], it is clearly held that where interests of justice transcend the interests of mere law, the fetter under Section 320 Cr.P.C cannot restrain this court from invoking the powers under Section 482 Cr.P.C.

5. I am satisfied that this is an eminently fit case where powers under Section 482 Cr.P.C can and ought to be invoked notwithstanding the fetter under Section 320 Cr.P.C. The joint request made by the learned counsel is hence accepted.

6. In the result, this Criminal Miscellaneous Case is allowed. C.C.No.15/2007 of Judicial First Class Magistrate Court-I, Ernakulam against the petitioner arising from Cr.No.414 of 2006 is hereby quashed.

(R.BASANT, JUDGE)

jsr

R.BASANT, J

C.R.R.P.No.

ORDER

21ST DAY OF JULY 2006